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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,988	10/20/2000	Frank Robertson Dawson JR.	RSW920000076US1	8088
36736	7590	09/23/2005	EXAMINER	
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			REVAK, CHRISTOPHER A	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/692,988

Applicant(s)

DAWSON ET AL.

Examiner

Christopher A. Revak

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8,13-25, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Togawa et al, U.S. Patent 5,918,008.

As per claims 1,18, and 30, it is disclosed by Togawa et al of a computer readable storage medium containing program code for use as a method for a data processing system that preventing the exchange of viruses. Pre-existing content is maintained for a device in a first memory location in the data processing system. New content associated with the device is placed in a second location, wherein the new content is an update to replace the pre-existing content. The pre-existing content is combined with the new content in a third location to form merged content. A check for viruses is performed on the merged content prior to performing a transfer of the new content. The merged content is stored as the pre-existing content that is maintained in

the data processing system if a virus is absent from the merged content (col. 14, and lines 18-39 and as shown in Figure 8).

As per claims 2 and 19, Togawa et al discloses of sending the merged content if a virus is absent from the merged content (col. 11, lines 50-53 and col. 14, lines 29-32).

As per claims 3 and 20, it is taught by Togawa et al of receiving new content from the device (col. 11, lines 50-53).

As per claims 4 and 21, it is disclosed by Togawa et al of the device being a wireless device (col. 4, lines 34-38).

As per claims 5 and 22, Togawa et al teaches of the device being a personal computer (col. 4, lines 34-38).

As per claims 6 and 23, it is taught by Togawa et al of using a hard disk drive in the data processing system (as shown in Figure 8).

As per claims 7 and 24, Togawa et al teaches that the hard disk drive is stored in a remote location to the data processing system (as shown in Figure 8).

As per claims 8 and 25, the teachings of Togawa et al disclose of use of a random access memory in a data processing system (as shown in Figure 8).

As per claim 13, Togawa et al discloses of a data processing system that includes a bus system, memory connected to the bus system, wherein the memory contains a set of instructions, and a processing unit connected to the bus system (as shown in Figure 8). Pre-existing content is maintained for a device in a first memory location in the data processing system. New content associated with the device is placed in a second location, wherein the new content is an update to replace the pre-

existing content. The pre-existing content is combined with the new content in a third location to form merged content. A check for viruses is performed on the merged content prior to performing a transfer of the new content. The merged content is stored as the pre-existing content that is maintained in the data processing system if a virus is absent from the merged content (col. 14, and lines 18-39 and as shown in Figure 8).

As per claim 14, it is disclosed by Togawa et al that the bus system includes a primary bus and a secondary bus (as shown in Figure 8).

As per claim 15, Togawa et al teaches of bus system comprising a single bus (as shown in Figure 8).

As per claim 16, Togawa et al discloses of the processing unit comprising a plurality of processor types (as shown in Figure 8).

As per claim 17, Togawa et al teaches of the processor unit including a single processor (as shown in Figure 8).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-12, 26-29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Togawa et al, U.S. Patent 5,918,008.

As per claims 9 and 26, the teachings of Togawa et al are silent in disclosing of a synchronization process between the data processing system and the device. The examiner hereby takes official notice that synchronization of updates between a client and a server is notoriously well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply synchronization of updates in order ensure that a client has the most up to date version of software. The motivation of ensuring synchronization is that both a client and server have the same updated information so that they can communicate with one another. It is obvious that the teachings of Togawa et al would have updated software on a requesting client computer that would be synchronized with a server to contain the most recent version of the requested software.

As per claims 10,27, and 31, Togawa et al discloses of a computer readable storage medium containing program code for use as a method for a data processing system that preventing the exchange of viruses. New content is identified as being associated with a device. The new content is combined with existing content to form merged content and the merged content is checked for viruses prior to transferring the new content (col. 14, lines 18-39). The teachings of Togawa et al are silent in disclosing of a synchronization process between the data processing system and the device. The examiner hereby takes official notice that synchronization of updates between a client and a server is notoriously well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have been motivated to apply synchronization of updates in order ensure that a client has the most up to date

version of software. The motivation of ensuring synchronization is that both a client and server have the same updated information so that they can communicate with one another. It is obvious that the teachings of Togawa et al would have updated software on a requesting client computer that would be synchronized with a server to contain the most recent version of the requested software.

As per claims 11 and 28, it is taught by Togawa et al of receiving new content from the device (col. 11, lines 50-53).

As per claims 12 and 29, Togawa et al discloses of sending new content to the device (col. 11, lines 50-53).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cheng et al, U.S. Patent 6,151,643 discloses of obtaining a current version of portions of a database and determining which products have updates available. Authentication of the software updates are checked for viruses to ensure that they are uncorrupted.

Xian et al, U.S. Patent 6,327,584 discloses of creating a temporary file that corresponds to an outdated file and checking for viruses while the file is being updated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR  
  
September 19, 2005

Christopher Revak  
Primary Examiner  
AU 2131

  
9/19/05